IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 49 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ANJAN H RAJA KARTA & MANAGERSHIKHAR ENTERPRISE

Versus

B.P.GUPTA

Appearance:

MR PV NANAVATI for the Petitioner.

MR VIBHUTI NANAVATI for Petitioner No. 1-1/2-1/2

MR DHAVAL M BAROT for the Respondent.

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 18/03/2004

ORAL JUDGEMENT

Rule. With the consent of the parties, the matter is taken up for final hearing today.

The petitioner, is the original defendant of

Summary Civil Suit No.3337 of 2001, which is pending in the City Civil Court at Ahmedabad. The aforesaid suit is filed under Order XXXVII of the Code of Civil Procedure. In the aforesaid suit, the present petitioner, who is the original defendant, submitted an application for leave to defend. The learned trial Judge granted conditional leave, asking the defendant to deposit Rs.2,50,000/- within a period of eight weeks from the date of the order. It seems that, there was some delay in depositing that amount. However, admittedly, the amount is deposited before the trial court. The petitioner submitted an application for condonation of delay in depositing the said amount, but the trial Judge has not granted such extension and rejected that application, against which this Civil Revision Application is preferred.

At the time of hearing of this Civil Revision Application, there is a consensus prevailing between the parties and it is agreed by the parties that, in case, the petitioner deposits further amount of Rs.25,000/- on or before 15th April, 2004, the delay in depositing the amount of Rs.2,50,000/- is to be condoned and suit to be now tried as Long Cause Suit.

With the consent of the parties, therefore, the following order is passed :-

The order of the learned trial Judge passed below Exhibit 30 in Summary Civil Suit No.3337 of 2001 is quashed and set aside. The delay in depositing Rs.2,50,000/- before the trial court is condoned. The petitioner is directed to deposit additional amount of Rs.25,000/- on or before 15th April, 2004. On such deposit, the respondent-original plaintiff is permitted to withdraw the entire amount of Rs.2,50,000/- plus additional amount of Rs.25,000/- by furnishing appropriate security to the satisfaction of the trial court.

After depositing the aforesaid amount, the defendant may file written statement within a period of 15 days from 15th April, 2004.

This order is passed on express consent by the learned Advocate for the petitioner that additional amount of Rs.25,000/- will be deposited before the trial court by 15th April, 2004.

In the facts and circumstances of the case, the hearing of the suit is expedited and Summary Civil Suit

No.3337 of 2001 may be decided at the earliest, and, in any case, by 30th April, 2005.

The revision application is accordingly allowed. Rule is made absolute. No costs.

18th March, 2004 (P.B. Majmudar, J.)

***

(apj)